

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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KEVIN D. SUTTON,

**Plaintiff,**

**STATE OF NEVADA, et al.,**

## Defendants.

Case No. 3:17-cv-00357-MMD-VPC

**ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION  
OF MAGISTRATE JUDGE  
VALERIE P. COOKE**

Before the Court is the Amended Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 5) ("R&R") relating to plaintiff's application to proceed *in forma pauperis* ("Application") (ECF No. 1) and *pro se* complaint (ECF No. 1-1). Plaintiff had until February 7, 2018 to object. (ECF No. 5.) To date, no objection to the R&R has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to  
2 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
4 view that district courts are not required to review "any issue that is not the subject of an  
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
6 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
8 which no objection was filed).

9 The R&R recommends granting Plaintiff's Application and dismissing the  
10 complaint with prejudice. (ECF No. 5.) As noted, Plaintiff failed to object. The Court will  
11 therefore adopt the R&R.

12 It is therefore ordered, adjudged and decreed that the Report and  
13 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 5) is accepted and  
14 adopted in its entirety.

15 It is ordered that plaintiff's application to proceed *in form pauperis* (ECF No. 1)  
16 without having to prepay the full filing fee is granted.

17 It is further ordered that the Clerk detach and file the complaint (ECF No. 1-1).

18 It is further ordered that the complaint is dismissed with prejudice.

19 The Clerk is directed to close this case.

20 DATED THIS 27<sup>th</sup> day of February 2018.

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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE